

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARIO LOUIS NAVARRO,

Plaintiff,

v.

CATE, et al.,

Defendants.

Case No. 1:20-cv-00810-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS DEFENDANTS AND
CLAIMS**

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

On October 11, 2020, the Court screened Plaintiff's third amended complaint (Doc. 117) and found that it states cognizable claims of retaliation against Defendants Daveiga and Ruiz. (Doc. 268.) The Court found that the complaint's remaining claims were not cognizable. (*Id.*) The Court therefore directed Plaintiff, within 21 days, to file a fourth amended complaint curing the deficiencies in his pleading or to notify the Court that he wishes to proceed only on the claims found cognizable. (*Id.* at 10-11.) The Court cautioned Plaintiff that failure to comply with the order would result in a recommendation "that this action proceed only on the claims found cognizable ... and that all other claims and defendants be dismissed with prejudice." (*Id.* at 11.) Plaintiff has not filed a fourth amended complaint or otherwise responded to the Court's screening order, and the time to do so has passed.

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1 Accordingly, the Court RECOMMENDS that (1) Defendants Adams, Brooks, Chastain,
2 Comates, Davis, Grannis, Guzman, Hough, Junious, Neri, Rosenthal, Sheppard-Brooks, and
3 Wortman be DISMISSED, and (2) the claims in Plaintiff's third amended complaint be
4 DISMISSED, *except* for its claims of retaliation against Defendants Daveiga and Ruiz, pursuant
5 to 42 U.S.C. § 1983. The Court DIRECTS the Clerk of the Court to assign a district judge to this
6 action.

7 These Findings and Recommendations will be submitted to the United States District
8 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within 14 days**
9 of the date of service of these Findings and Recommendations, Plaintiff may file written
10 objections with the Court. The document should be captioned, "Objections to Magistrate Judge's
11 Findings and Recommendations." Failure to file objections within the specified time may result in
12 waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing
13 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

14
15 IT IS SO ORDERED.

16 Dated: **December 1, 2020**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE